

RHS, RBS, RUS, FSA, USDA

Pt. 1910

BECAUSE certain of these funds are not now required for immediate disbursement and it is the desire of the Depositor to place these funds in interest-bearing deposits with the Financial Institution:

THEREFORE, the Depositor and the Government authorize and direct the Financial Institution to place _____ Dollars (\$ _____) of the funds subject to that Deposit Agreement in interest-bearing deposits as follows:

\$ _____ for a period of _____ months
at _____ % interest.
\$ _____ for a period of _____ months
at _____ % interest.
\$ _____ for a period of _____ months
at _____ % interest.

These interest-bearing deposits and the income earned on them at all times shall be considered a part of the account covered by said Deposit Agreement except that the right of the Depositor and the Government to jointly withdraw all or a portion of the funds in the account covered by the Deposit Agreement by an order of the Depositor countersigned by a representative of the Government, and the right of the Government to make written demand for the balance or any portion of the balance, is modified by the above time deposit maturity schedule. The evidence of such time deposits shall be issued in the names of the Depositor and the Farmers Home Administration or its successor agency under Public Law 103-354.

A copy of this Agreement shall be attached to and become a part of each certificate, passbook, or other evidence of deposit that may be issued to represent such interest-bearing deposits.

Executed this _____ day of _____, 19____.

UNITED STATES OF AMERICA

By: _____

County Supervisor

Farmers Home Administration or its successor agency under Public Law 103-354

U.S. Department of Agriculture

(Depositor)

By: _____

Title: _____

Accepted on the above terms and conditions this _____ day of _____, 19____.

(Financial Institution)

(Office or Branch)

By: _____

Title: _____

[53 FR 35671, Sept. 14, 1988; 55 FR 21524, May 25, 1990]

Subparts B-C [Reserved]

PART 1904—LOAN AND GRANT PROGRAMS (INDIVIDUAL) [RESERVED]

PART 1910—GENERAL

Subpart A—Receiving and Processing Applications

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AUTHORITY: 5 U.S.C. 301; 7 U.S.C. 1989; 42 U.S.C. 1480.

SOURCE: 43 FR 56643, Dec. 4, 1978, unless otherwise noted.

Subpart A—Receiving and Processing Applications

SOURCE: 53 FR 35671, Sept. 14, 1988, unless otherwise noted.

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§ 1910.1 General.

This subpart prescribes the policies and procedures for informing interested parties of the Farm Credit loan programs available through the Farm Service Agency (FSA), and how such requests are processed. Requests for Nonprogram (NP) assistance will be handled in accordance with subpart J of part 1951 of this chapter. References contained herein to the housing programs of the Rural Housing Service (RHS), or its successor agency, are no longer applicable.

(a) The County Supervisor will provide information about FSA and RHS services to all persons making inquiry about FSA and RHS programs. This information may be provided by individual interviews, correspondence, or distribution of pamphlets, leaflets, and appropriate FSA and RHS regulations.

(b) Wherever the term “applicant” appears in this subpart, it shall be construed to mean applicant and/or co-applicant, if any.

(c) FmHA forms are available in any Rural Development (RD) or FSA office.

(d) The terms “interest credit” and “interest credit assistance,” as they relate to Single Family Housing (SFH), are interchangeable with the term “payment assistance.” Payment assistance is the generic term for the subsidy provided to eligible SFH borrowers to reduce mortgage payments.

(e) As used in this subpart in relation to Farm Credit Programs loans, *Agency* means the Farm Service Agency, its county and State committees and their personnel, and any successor agency.

(f) As used in this subpart, the abbreviation “Lo-Doc” means Low-Documents and the abbreviation “OL” means Operating Loan.

[53 FR 35671, Sept. 14, 1988, as amended at 55 FR 21524, May 25, 1990; 55 FR 29560, July 20, 1990; 56 FR 66959, Dec. 27, 1991; 58 FR 44263, Aug. 20, 1993; 58 FR 52646, Oct. 12, 1993; 60 FR 55122, Oct. 27, 1995; 61 FR 35919, July 9, 1996; 61 FR 59777, Nov. 22, 1996; 62 FR 9353, Mar. 3, 1997; 66 FR 1572, Jan. 9, 2001]

§ 1910.2 Equal Credit Opportunity Act (ECOA) and Regulation B.

ECOA as amended, prohibits discrimination in credit based on sex, marital status, race, color, religion, natural origin, age (provided the appli-

cant has the capacity to contract), because all or part of the applicant's income is derived from public assistance of any kind, or because the applicant has, in good faith, exercised any right under the Consumer Credit Protection Act. These shall hereafter be referred to in this subpart as “ECOA prohibited bases.” It is the policy of the Farmers Home Administration or its successor agency under Public Law 103-354 that assistance and services shall not be denied to any person or applicant as a result of race, sex, national origin, color, religion, marital status, age, receipt of income from public assistance, or because the applicant has, in good faith, exercised any right under the Consumer Credit Protection Act.

§ 1910.3 Receiving applications.

Applications for FSA or RHS assistance will ordinarily be filed in the County Office serving the area in which the farm, dwelling, business, or other facility for which financing is being requested is or will be located.

(a) All persons applying for FSA or RHS assistance who are not indebted to FSA or RHS must file a written application. All persons wishing to submit an application will be encouraged to do so. No oral or written statement will be made to applicants or prospective applicants that would discourage them from applying for assistance, based on any ECOA “prohibited bases.” The filing of written applications *will be encouraged* even though funds may not be currently available, since complete applications must be considered in the date order received, except when program regulations or Veteran status provides for preference. Applications will normally be handled as follows:

(1) Form FmHA 410-4, “Application for Rural Housing Assistance (Non-Farm Tract),” will be used by applicants for RH loans on nonfarm tracts who depend primarily on off-farm income.

(2) Form FmHA 410-1, “Application for FmHA Services,” will be used by all other applicants. These include persons applying for RH loans on farms or non-farm tracts who derive a major portion of their income from farming. For EM

loans, it is also necessary for the applicant to complete Form FmHA 1945-22, "Certification of Disaster Losses."

(3) SF 424.2, "Application for Federal Assistance (For Construction)," with the requirements outlined in the applicable program exhibits will be used by all applicants applying for LH loans.

(4) The Right to Financial Privacy Act of 1978, Title XI of Pub. L. 95-630, requires that:

(i) Except as specified in paragraph (a)(4)(ii) of this section, within 3 days of the receipt of an application for a loan or grant from an individual or a partnership of five or fewer members, the RD office will forward Form FmHA 410-7, "Notification to Applicant on Use of Financial Information from Financial Institution," to those applicants.

(ii) For a labor housing application filed by an individual or a partnership of five or fewer members, the RD office will comply with paragraph (a)(4)(i) of this section only if it is determined that financial information will be requested from any financial institution.

(5) All individual loan applicants will sign Form FmHA or its successor agency under Public Law 103-354 410-9, "Statement Required by the Privacy Act." A signed copy will remain with the application. No application is complete without a signed Form FmHA or its successor agency under Public Law 103-354 410-9 on file.

(6) Information regarding race, national origin, sex, and marital status is needed for monitoring purposes for all applications filed for assistance to finance residential real estate and direct FO loans when the loan is to be secured by a lien on the property. In those cases, FmHA or its successor agency under Public Law 103-354 will request the applicant and/or co-applicant to furnish that information on the application on a voluntary basis. The application form will indicate that this information is provided on a voluntary basis.

(7) Applicants are asked to identify any known relationship or association with an FmHA or its successor agency under Public Law 103-354 employee when completing the application. When there is a relationship or association, the processing official must complete

the action required under subpart D of part 1900 of this chapter.

(b) Requests by FmHA or its successor agency under Public Law 103-354 borrowers for additional assistance will be submitted as prescribed by each loan/grant program, and the following:

(1) All applicants must provide their taxpayer's identification number with their applications, except as noted in paragraph (i) of this section.

(2) RH applicants who have a current Form FmHA or its successor agency under Public Law 103-354 1944-3, "Budget and/or Financial Statement", or Form FmHA or its successor agency under Public Law 103-354 410-4, and who are presently indebted to FmHA or its successor agency under Public Law 103-354, will be required to complete only the following items of Form FmHA or its successor agency under Public Law 103-354 410-4 (if other information about their current status is not available for adequate processing of their applications, these applicants should fully complete Form FmHA or its successor agency under Public Law 103-354 410-4):

- (i) Name.
- (ii) Social Security Number.
- (iii) Loan purpose.
- (iv) Planned income for next 12 months.
- (v) Date and signature of the application.

(3) Farmer Program applicants who are presently indebted to FmHA or its successor agency under Public Law 103-354 will be required to complete Form FmHA or its successor agency under Public Law 103-354 410-1. When application is made within 60 days of the date of table A, "Balance sheet," on Form FmHA or its successor agency under Public Law 103-354 431-2, "Farm and Home Plan," and there are no significant changes that would affect eligibility, reference to table A of Form FmHA or its successor agency under Public Law 103-354 431-2 can be made in Item 17, "Financial Statement as of Date of Application," of Form FmHA or its successor agency under Public Law 103-354 410-1.

(4) Applicants for EM loans with new losses from disaster, as authorized under EM regulations, must also complete Form FmHA or its successor

agency under Public Law 103-354 1945-22 in addition to the other required forms.

(c) County Office employees will be responsible for receiving loan applications and giving a preliminary explanation of services available through FmHA or its successor agency under Public Law 103-354. An explanation of the types of assistance available should be given whenever it is not clear to the applicant what type of loan or grant will meet the applicant's needs. The employee receiving the application will make sure that it is properly completed, dated and signed, and will give whatever assistance is necessary. An applicant may apply for and maintain a loan account using a birth-given first name and a birth-given surname, or the spouse's surname, or a combination of surnames. Married persons may apply as individuals. In the case of a joint application for other than a farmer program loan, the persons requesting the assistance will designate who is listed as "applicant" and who is listed as "co-applicant." For farmer program loans, there will be only one applicant. If a husband and wife insist on applying as co-applicants for a farmer program loan and the farming operation is a sole proprietorship, they will be considered a joint operation and they both will have to meet the eligibility requirements applicable to the joint operation. County Office employees must explain to husbands and wives that they both do not need to apply for farmer program loans unless they desire to do so or the application is for an entity operation. If they apply together for a loan, it must be explained that they will be considered as a joint operation. When the use of veteran's preference is involved, the identity of the veteran must be properly documented if the name used in the application differs from that shown on the veteran's evidence of eligibility.

(d) Information will be obtained about household members or others, including cosigners, as required by program regulations needed to determine eligibility for the requested assistance. A cosigner will be required only when it has been determined that the applicant cannot possibly meet the repayment or the security requirements for the loan request. When a co-signer will

be required, the applicant will be requested to identify their choice of co-signer. An applicant will also be required to provide information concerning a co-signer, spouse or former spouse, who will not be a co-signer, or who is not a member of the household, when the applicant is relying on the co-signer, alimony, child support, separate maintenance from that spouse or former spouse as a basis for repayment, or receipt of such payments will be considered for eligibility. In such cases, information regarding the co-signer's, spouse's or former spouse's financial resources may be requested. Only information regarding the receipt and dependability of income from alimony, child support, or separate maintenance, provided by a former spouse, may be requested, considered, and verified to determine eligibility and repayment ability.

(e) Signature requirements on the Promissory Note will be as needed to assure repayment of the indebtedness and as set out in the loan making regulations. The spouse of an applicant will not be required to sign the note unless the spouse's signature on the note is required to create a security interest or the spouse is a co-applicant. Signature requirements on the Mortgage or Deed of Trust will be sufficient to obtain the required lien, and to make the property being offered as security available to satisfy the debt in the event of default. FmHA or its successor agency under Public Law 103-354 State supplements will be issued to outline the requirements in accordance with State real property law. The State Director will obtain the advice of OGC prior to issuance of the State supplement.

(f) If a spouse's signature would be necessary for FmHA or its successor agency under Public Law 103-354 to obtain the necessary security, information regarding an applicant's marital status will be obtained. Only the terms "married" and "separated" may be used to designate marital status. "Unmarried" includes single, divorced, or widowed persons.

(g) FmHA or its successor agency under Public Law 103-354 may not request information concerning birth

control practices, intentions concerning the bearing or rearing of children, or capability to bear children. Assumptions or aggregate statistics relating to the likelihood or probability that any particular group of persons will bear or rear children will not be used to evaluate creditworthiness, or for any other purpose; nor will the assumption be made that, for that reason, an applicant will receive diminished or interrupted income in the future.

(h) If after discussing credit needs, it appears that the applicant may be able to obtain the necessary credit from some other source, the County Supervisor should provide information on the availability of such credit and provide the needed assistance in contacting that credit source. All applications, including those from applicants assisted in obtaining credit from other credit sources, will be listed and reported in accordance with FmHA or its successor agency under Public Law 103-354 Instructions 1905-A and 2006-J which are available in all FmHA or its successor agency under Public Law 103-354 offices.

(i) For all loans and grants, the applicant *must* furnish the applicant's taxpayer's identification number with the application, except as otherwise indicated in this paragraph. The taxpayer's identification number for individuals who are not business applicants is the Social Security Number (SSN). The taxpayer's identification number will be used as part of the borrower's case number, except as noted in paragraph (i)(3) of this section.

(1) The SSN preceded by the State and county code numbers will constitute the borrower's case number to be used on all FmHA or its successor agency under Public Law 103-354 forms.

(2) In the case of noncitizens who are permanent residents or on indefinite parole and who do not yet have a taxpayer's identification number, their applications will be filed; however, they will not be processed until the SSN is obtained. Disposition of applications not processed because of lack of the number will be as set forth in FmHA or its successor agency under Public Law 103-354 Instruction 2033-A, "Management of County Office

Records," (available in any FmHA or its successor agency under Public Law 103-354 office).

(3) The borrower's case number for residents of the Pacific Islands will be taxpayer's identification number issued by the Pacific Islands Government.

(j) For all loans and credit sales secured by a first mortgage and involving the purchase of an existing 1 to 4 family unit, or purchase of a building site and construction of 1 to 4 family residential units, or FO loans involving tracts of 25 acres or less, whether made to an individual, corporation, partnership, joint operation, cooperative, association, or other entity, the booklet entitled "Settlement Costs" will be hand-delivered to the applicant when the completed application is received, or mailed to the applicant within three (3) business days after receipt of the application in the County Office.

(1) Form FmHA or its successor agency under Public Law 103-354 440-58, "Estimate of Settlement Costs," will be completed by the County Supervisor and delivered to the applicant with the booklet.

(2) A record of the date and method of delivery of the booklet and Form FmHA or its successor agency under Public Law 103-354 440-58 will be kept in the running record section of the applicant's/borrower's County Office case folder.

(k) For loans, assumptions and credit sales to individuals for household purposes that are subject to the Real Estate Settlement Procedures Act (RESPA), Form FmHA or its successor agency under Public Law 103-354 1940-41, "Truth in Lending Disclosure Statement," will be completed using "good-faith" estimates, and will be delivered or placed in the mail to the applicant within 3 business days of receipt of the written application in the County Office.

(l) Fees for the total amount charged for individual credit reports as indicated in exhibit A of subpart B of part 1910 of this chapter (available in any FmHA or its successor agency under Public Law 103-354 office) will be collected from the loan applicants before credit reports are ordered, except in the case of section 504 loan applicants

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and section 502 Rural Housing Loan applicants whose requested loan will likely not exceed \$7,500. It is the policy not to order credit reports for Rural Housing loans of \$7,500, or less, but if the County Supervisor determines that a credit report is necessary, it will be ordered at no cost to the loan applicant as provided for in § 1910.53(g) of subpart B of part 1910 of this chapter.

[53 FR 35671, Sept. 14, 1988, as amended at 54 FR 11365, Mar. 20, 1989; 55 FR 21524, May 25, 1990; 56 FR 66959, Dec. 27, 1991; 58 FR 226, Jan. 5, 1993; 58 FR 44263, Aug. 20, 1993; 61 FR 35919, July 9, 1996; 62 FR 9353, Mar. 3, 1997]

§ 1910.4 Processing applications.

When obtaining information concerning applicants and evaluating their qualifications, FmHA or its successor agency under Public Law 103-354 personnel will be covered by the provisions of ECOA and the established policies for the various types of assistance offered by FmHA or its successor agency under Public Law 103-354. If a farm is situated in more than one State, County or Parish, the loan will be processed in the State, County or Parish where the applicant's principal residence on the farm is located. If the applicant's residence is not located on the farm or if the applicant is a corporation, cooperative, partnership or joint operation, the loan will be processed by the County Office serving the County in which the farm or a major portion of the farm is located, unless otherwise approved by the State Office. Applications of FmHA or its successor agency under Public Law 103-354 employees, members of their families, close relatives, or business or close personal associates are processed according to subpart D of part 1900 of this chapter.

(a) *Completed RH applications.* Completed applications are those as described in § 1944.27 (copies available in any REDC office), and all applications for Rural Housing loans will be processed as outlined in that instruction.

(b) *Completed Farm Loan Programs applications and additional FSA responsibilities.* All persons requesting an application will be provided exhibit A (available in any office). The County Supervisor will provide assistance as nec-

essary to help applicants complete their applications. Complete applications will be processed in the order of date received, except as outlined in § 1910.10 of this subpart. If the application is complete when it is first received, a County Office official will stamp the filing date on the front of Form FmHA 410-1 and enter the date in the "Application Received" and "Application Completed" fields in the Application Processing Module of the Management Records Systems (MRS.) On the date all information necessary to process an application is received, a County Office official will send the applicant FmHA Guide Letter 1910-A-3 (available in any office) notifying the applicant that the application is considered complete. The date entered in the "Application Completed" field in the Application Processing Module of MRS will establish the 30-day and 60-day timeframes for determining eligibility and loan approval/disapproval, respectively. The County Supervisor will verify the information furnished by the applicant, and record and assemble additional information needed to properly evaluate the applicant's qualifications and credit needs. Additional information may be obtained and verified by County Office records, personal contacts, and visits to the applicant's operation. Applicants who request a waiver of the direct OL term limits in accordance with subpart A of part 1941 of this chapter based on the facts that their land is subject to the jurisdiction of an Indian tribe and their loan is secured by one or more security instruments subject to the jurisdiction of an Indian tribe, automatically consent to the Agency releasing information as necessary to the Bureau of Indian Affairs to confirm these facts. A complete Farm Loan Programs application requires fulfillment of both the applicant and FSA responsibilities, except as provided in paragraph (c) of this section. Once this information is received and the application is considered complete, FSA has additional responsibilities before loan approval is determined. The various responsibilities are as follows:

RHS, RBS, RUS, FSA, USDA

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APPLICANT'S RESPONSIBILITIES FOR A COMPLETE APPLICATION

(1) Completed Form FmHA 410-1, "Application for FmHA Services," including a signed Form FmHA 410-9, "Statement Required by the Privacy Act."

(2) If the applicant is a cooperative, corporation, partnership, joint operation, trust, or limited liability company:

(i) A complete list of entity members showing the address, citizenship, principal occupation, and the number of shares and percentage of ownership or of stock held in the entity by each member, or the percentage of interest in the entity held by each member.

(ii) A current personal financial statement from each member of the entity.

(iii) A current financial statement from the entity itself.

(iv) A copy of the entity's charter or any entity agreement, any articles of incorporation and bylaws, any certificate or evidence of current registration (good standing), and a resolution(s) adopted by the Board of Directors or entity members authorizing specified officers of the entity to apply for and obtain the desired loan and execute required debt, security, and other instruments and agreements.

(3) A brief written description as to the farm training and/or experience of the applicant and the individual members of an entity applicant (new applicants only). If a waiver from the training required in Section 1924.74 of subpart B of part 1924 of this chapter is requested, provide verification of any courses taken which covered production and/or financial management concepts, and/or a statement explaining how the applicant's proven performance based on 5-year production records demonstrates production ability.

(4) Supporting and documented verification that the applicant (and all members of an entity applicant) cannot obtain credit elsewhere, including a guaranteed loan.

(5) Financial records for the past five years. Income tax records may be provided by the applicant when other financial records are not available.

(6) Five years of production history immediately preceding the year of application, unless the applicant has been farming less than 5 years.

(7) A brief written description of the proposed operation and the proposed size of the operation (required for new applicants and existing borrowers with significant changes in their operations).

(8) Verification of off-farm employment, if any. This will be used only when the applicant is relying on off-farm income to pay part of the applicant's expenses.

(9) Projected production, income and expenses, and loan repayment plan, which may be submitted on Form FmHA 431-2, "Farm and Home Plan," or other similar plans of operation acceptable to FSA.

(10) Applicable items required in exhibit M of subpart G of part 1940 of this chapter including SCS Form CPA-026, "Highly Erodible Land and Wetland Conservation Determination," Form AD-1026, "Highly Erodible Land Conservation (HELC) and Wetland Conservation (WC) Certification," and Form FmHA 1940-20, as required by subpart G of part 1940 of this chapter.

(11) A legal description of farm, real estate property and/or (if applicable) a copy of any lease, contract, option or agreement entered into by the applicant which may be pertinent to consideration of the application, or when a written lease is not obtainable, a statement setting forth the terms and conditions of the agreement.

(12) Form FmHA 440-32, "Request for Statement of Debts and Collateral," when applicable.

(13) Forms FmHA 1945-22, "Certification of Disaster Losses," and FmHA 1940-38, "Request for Lender's Verification of Loan Application," (EM loans only).

FSA'S RESPONSIBILITIES FOR A COMPLETE APPLICATION

(14) Send Form FmHA 410-7, "Notification to Applicant on Use of Financial Information from Financial Institution," to the applicant when applicable.

(15) Form FmHA 1945-26, "Calculation of Actual Losses" (EM loans only).

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(16) Credit reports as provided in subparts B and C of this part.

(17) Form FmHA 1945-29, "ASCS Verification of Farm Acreages, Production and Benefits," (EM loans only).

(18) The Current/Past Debt Inquiry and Borrower Cross-Reference Systems. The Current/Past Debt Inquiry System must be reviewed for each application and copies of the screens must be attached to the applicant's file.

ADDITIONAL FSA FARM CREDIT RESPONSIBILITIES

(19) Form FmHA 1924-1, "Development Plan," if necessary.

(20) Form FmHA 1940-22, "Environmental Checklist for Categorical Exclusions," or Class I and Class II assessment, whichever is applicable.

(21) Real estate and chattel appraisal, when applicable.

(22) Completion of the assessment in accordance with § 1924.55.

(c) Low-Documentation (Lo-Doc) Operating Loans:

(1) To qualify for loan processing under Lo-Doc provisions, an applicant must:

(i) Be current on all payments to all creditors including FSA (if an FSA borrower);

(ii) Have not received primary loan servicing or disaster set-aside on any FSA debt within the past 5 years; and

(iii) Meet one of the following criteria:

(A) The loan requested is \$50,000 or less and the total outstanding FSA operating loan debt at the time of loan closing will be less than \$100,000; or

(B) The loan is requested to pay annual operating expenses and the applicant is an existing FSA borrower who has received and repaid as scheduled, at least two previous annual operating loans from the agency.

(2) A complete Lo-Doc OL application will consist of the items listed in paragraphs (b)(1), (b)(2), (b)(9), (b)(10), and (b)(16) of this section. The Agency may require a Lo-Doc applicant to submit any other information listed under paragraph (b) of this section as needed to make a determination on the loan application.

(d) *Notifying applicants that direct loan eligibility is subject to the unavailability*

of guaranteed financing. If the assessment, completed in accordance with § 1924.55 concludes that guaranteed assistance may be available, with or without interest assistance, a prospectus will be sent to area lenders in accordance with § 1951.262(f) as appropriate. If a lender indicates interest in providing financing with a Farm Credit Programs loan guarantee, refer to § 1980.113(c) for handling as a market placement application. No direct loan to a current borrower will be approved until the process outlined in this paragraph has been concluded.

(e) *Incomplete Farm Credit Programs applications.* (1) When an incomplete application is received, a County Office official will stamp the filing date on the front of Form FmHA 410-1, and enter the date in the "Application Received" and "Incomplete Application" fields in the Application Processing Module of MRS.

(2) When an application that was received incomplete is completed, the date will be entered in the "Application Completed" field in the Application Processing Module of MRS. The County Supervisor will follow the requirements of paragraph (b) of this section.

(3) Applicants who do not submit necessary information for complete applications, as described in paragraph (b) of this section, for EM, FO, OL and SW loans, will be handled as follows:

(i) No later than 10 calendar days after receipt of the application, the County Supervisor will send the applicant a letter similar to FmHA Guide Letter 1910-A-1. The letter will:

(A) List the additional information needed.

(B) State that the application cannot be processed until all required information is received in the FmHA or its successor agency under Public Law 103-354 County Office.

(C) Set a specific due date for the information. This date will be 20 calendar days after the date of the letter.

(ii) When information is needed from other USDA Agencies, the County Supervisor will inform those Agencies and the applicant of the information needed, and note the date of the request in the running record. For operating loan applications, the County Supervisor

will request that the Agencies return the information to the County Office within 15 calendar days of the date of receipt of the request.

(iii) If the necessary information has not been received from the applicant 20 calendar days after the date of the first written notification of an incomplete application, the County Supervisor will immediately send the applicant a letter similar to FmHA Guide Letter 1910-A-2.

(A) The letter will again list the additional information needed, and state that the application cannot be processed until all the required information is received.

(B) The letter will set a due date of 10 calendar days from the date of the letter. It will further state that unless the applicant supplies the required information or contacts the County Office by that date, the application will be withdrawn without further notice.

(C) This letter will contain the Equal Credit Opportunity Act (ECOA) statement set forth in §1910.6(b)(1) of this subpart.

(D) A copy of this letter must be sent to the District Office at the same time it is sent to the applicant.

(iv) If the applicant has not contacted the County Office by the due date set in the second notification letter, the County Supervisor will then withdraw the application.

(v) All applications withdrawn will be handled in accordance with §2033.7 of FmHA Instruction 2033-A.

(f) *Notifying applicants (including presently indebted borrowers) about Limited Resource loans.* Immediately after an application for OL, FO, SW, or EM assistance is received, the County Supervisor will send a letter similar to Guide Letter 1924-B-1 to the applicant telling the applicant about Limited Resource loans.

(g) *Notifying socially disadvantaged applicants regarding the availability of Direct Farm Ownership (FO) loans.* Immediately after an application for FO assistance is received, the County Supervisor will send exhibit B of this subpart, "Letter to Notify Socially Disadvantaged Applicants/Borrowers Regarding the Availability of Acquired Farmland," to the applicants. Exhibit B will also be presented to all socially

disadvantaged individuals at the time they make their initial contact regarding Agency credit services. Socially disadvantaged applicants are defined in §1943.4 of subpart A of part 1943 of this chapter.

(h) *Notifying Borrowers about Farm Credit Programs (FCP) Borrower Responsibilities.* When an application for OL, FO, SW or EM assistance is approved, the County Supervisor will provide to the borrower exhibit C of this subpart, "Letter to Notify Applicant(s)/Borrower(s) of Their Responsibilities in Connection with FmHA Farmer Programs Loans."

(i) *Determining eligibility.* The Agency will determine eligibility of all Farm Credit Programs applicants including those who are already indebted for a Farm Credit Programs loan. The Farm Credit Programs application does not need to be complete before it is reviewed; however, all information relative to the eligibility decision must be received. The Rural Housing Service will determine eligibility for all RH loan applicants.

(1) The Agency will certify whether or not the applicant meets the eligibility requirements and whether or not the applicant is a beginning farmer or rancher, as defined in the applicable Farm Credit Programs loan making regulation. An eligible Operating Loan (OL) or Farm Ownership (FO) Loan applicant, who is considered a beginning farmer or rancher, will have access to targeted funds. An eligible FO applicant requesting to purchase suitable farmland, who is considered a beginning farmer or rancher, will be given priority in accordance with §1955.107 (f). In addition, it is the responsibility of the Agency to determine whether or not the FO applicant is an operator of not larger than a family size farm, as of the time immediately after the contract of sale or lease is entered into, even though the applicant is not in need of Agency credit assistance on eligible rates and terms to purchase suitable farmland. The loan approval official will determine the applicant's projected repayment ability, the adequacy of collateral equity to secure the requested loan, and the feasibility of the proposed operation.

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(2) An outstanding judgment obtained by the United States in a Federal Court (other than the United States Tax Court), which has been recorded, shall cause the applicant to be ineligible for any loan or grant until the judgment is paid in full or otherwise satisfied. Agency loan or grant funds may not be used to satisfy the judgment.

(j) *Timeliness.* Processing requirements for each program area are as follows:

(1) *Farm Credit Programs (FCP) applications.* Each application must be approved or disapproved and the applicant notified in writing of the action taken, not later than 60 days after receipt of a complete application. The District Director will monitor the processing of all applications to ensure that each is processed in a timely manner and receives a final disposition (i.e., approval, rejection, or withdrawal) within the timeframes outlined in this section.

(i) Receipt by the applicant of a signed copy of Form FmHA 1940–1, “Request for Obligation of Funds,” will be considered written notice of loan approval.

(ii) If a complete application is not approved or disapproved 45 calendar days after all necessary information is received, the following steps will be taken:

(A) The County Supervisor will make sure that the data in the County Office MRS data base regarding the application are up-to-date, and that the reason it remains pending is noted. A selection of reasons is listed in MRS.

(B) Every week the District Director will generate a report, using the FOCUS Ad-Hoc Reporting System, based on the weekly upload of information from each county office MRS data base. The District Director will note each complete application pending more than 45 calendar days, and immediately take steps to ensure that final disposition on the application is taken no later than 60 calendar days after receipt of the complete application.

(C) The Administrator will utilize MRS data and any other information available to comply with any statutory reporting requirements concerning the status of applications.

(2) *Single Family Housing (SFH) loans.* Written notice of eligibility or ineligibility will be sent to each applicant not later than 30 days after receipt of a complete application. If a determination of eligibility cannot be made within 30 days from the date of receipt of the complete application, the applicant will be notified in writing of the circumstances causing the delay and the approximate time needed to make a decision.

(3) *Labor Housing (LH) preapplications.* Preapplications must be determined eligible and feasible and the applicant notified in writing in accordance with applicable program regulations not later than 45 days after receipt of a complete preapplication. This eligibility determination will be made regardless of funding levels.

(4) *LH applications.* If a determination of eligibility cannot be made within 30 days from the date of receipt of a complete application, the applicant will be notified in writing of the circumstances causing the delay and the approximate time needed to make a decision.

(5) *Adverse decisions.* If an applicant is given an adverse decision, the applicant will be given appeal rights as provided in subpart B of part 1900 or 7 CFR part 780, as appropriate. The letter will contain the ECOA statement set forth in § 1910.6(b)(1) of this subpart.

(k) [Reserved]

(l) *Active applications.* An applicant may voluntarily withdraw an application at any time. Except for incomplete Farm Credit Programs applications, when an applicant has been determined eligible, but further processing is delayed due to an apparent lack of interest, the applicant will be advised by letter that the application will be considered withdrawn unless the County Office receives a written request within 30 days that further consideration is desired. The letter to the borrower will contain the ECOA statement set forth in § 1910.6(b)(1) of this subpart.

(1) Applications for RH, RHS, and LH loans (posted on Form FmHA 1905–4,

“Application and Processing Card—Individual,” or inputted in the Application Processing Module of MRS) received during any fiscal year will remain active during the remainder of that fiscal year in which they were received, plus the subsequent fiscal year, unless withdrawn or disapproved, or unless the loan is closed.

(2) Applications received for FO, SW, OL, EM, and persons applying for RH loans on farms or nonfarm tracts who derive a major portion of their income from farming (inputted in the Application Processing Module of MRS), will remain active for 12 months from the date a complete application is received, unless withdrawn or disapproved, or unless the loan is closed.

(3) See paragraph (d) of this section for procedures for incomplete Farm Credit Programs applications.

(4) All applications which are withdrawn or rejected will be handled in accordance with §2033.7 of the Agency Instruction 2033-A. If notice has been received by the Agency that an adverse action is under investigation or in litigation, that application and all related material will be retained until final disposition of the matter.

(5) When an application has been approved and funds are not available, and the steps outlined in §1910.6(g) of this subpart have been taken, the following provisions apply:

(i) The County Supervisor will, during the 11th month following loan approval, notify the applicant that the application will expire 12 months from the date of loan approval.

(ii) If the applicant wants the application to remain active, the applicant must provide the County Office with a written request within 30 days, requesting that the application remain active.

(iii) The applications retained at the applicant's request will be extended for only one additional 12-month period.

(iv) If the applicant fails to respond to the County Supervisor's written re-

quest, the application will be withdrawn.

[53 FR 35671, Sept. 14, 1988, as amended at 55 FR 21525, May 25, 1990; 55 FR 29560, July 20, 1990; 55 FR 46188, Nov. 2, 1990; 56 FR 66959, Dec. 27, 1991; 57 FR 19523, May 7, 1992; 58 FR 226, Jan. 5, 1993; 58 FR 44746, Aug. 25, 1993; 58 FR 48283, Sept. 15, 1993; 58 FR 68719, Dec. 29, 1993; 58 FR 69195, Dec. 30, 1993; 60 FR 55122, Oct. 27, 1995; 61 FR 35920, July 9, 1996; 62 FR 9353, Mar. 3, 1997; 66 FR 1572, Jan. 9, 2001; 68 FR 7696, Feb. 18, 2003; 68 FR 62223, Nov. 3, 2003]

§ 1910.5 Evaluating applications.

The following criteria will be considered in addition to the eligibility criteria in applicable program regulations.

(a) *Age of applicant.* When evaluating the application, the age of the applicant will not be used as a consideration of eligibility (provided the applicant has reached the legal age of majority in the State, or has had the minority removed by court action) except when a specific age is being used to the advantage of the applicant (e.g. assistance under the 504 grant program).

(b) *Credit history.* Credit history will be a consideration to the extent that it is used in evaluating all applicants for similar types and amounts of credit. For instance, credit requirements for a female applicant will not differ from those for a male applicant.

(c) When the applicant, including any members of an entity applicant, caused the Agency a loss by receiving debt forgiveness, they are ineligible for assistance in accordance with applicable program eligibility regulations. If the debt forgiveness is cured by repayment of the Agency's loss, the Agency may still consider the debt forgiveness in determining the applicant's creditworthiness. The following circumstances do not automatically indicate an unacceptable credit history:

(1) Foreclosures, judgments, delinquent payments of the applicant which occurred more than 36 months before the application, if no recent similar situations have occurred, or Agency delinquencies that have been resolved

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through loan service programs as defined in § 1951.906 of part 1951 of subpart S of this chapter.

(2) Isolated incidents of delinquent payments which do not represent a general pattern of unsatisfactory or slow payment.

(3) “No history” of credit transactions by the applicant.

(4) Recent foreclosure, judgment or delinquent payment when the applicant can satisfactorily demonstrate that:

(i) The circumstances causing any of the above were of a temporary nature and were beyond the applicant’s control. Example: loss of job; delay or reduction in government benefits, or other loss of income; increased living expenses due to illness, death, etc.

(ii) The adverse action or delinquency was the result of a refusal to make full payment because of defective goods or services or as a result of some other justifiable dispute relating to the goods or services purchased or contracted for.

(5) Non-payment of a debt due to circumstances beyond the applicant’s or borrower’s control. However, non-payment of a debt due to circumstances within an applicant’s or borrower’s control may be used as an indication of unacceptable credit history, in accordance with paragraph (c)(1) of this section. The mere fact that an applicant or borrower filed bankruptcy will not be used as an indication of unacceptable credit history. The circumstances causing the nonpayment of debt, i.e., whether nonpayment was beyond the applicant’s or borrower’s control, however, are proper considerations.

(d) *Current/Past FmHA or its successor agency under Public Law 103–354 Loan History.* Current or previous delinquent FmHA or its successor agency under Public Law 103–354 loans, as determined by reviewing the Current/Past Debt Inquiry System or the Borrower Cross-Reference Inquiry System, will be used to help determine the credit history of an applicant.

(e) *Delinquency on a Federal debt.* The Department of Housing and Urban Development Credit Alert Interactive Voice Response System (CAIVRS) will

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be used to help determine if an applicant is delinquent on any Federal debt.

[53 FR 35671, Sept. 14, 1988, as amended at 55 FR 21525, May 25, 1990; 55 FR 46188, Nov. 2, 1990; 56 FR 10147, Mar. 11, 1991; 60 FR 55122, Oct. 27, 1995; 61 FR 1109, Jan. 16, 1996; 61 FR 2899, Jan. 30, 1996; 61 FR 35921, July 9, 1996; 62 FR 28618, May 27, 1997]

§§ 1910.6–1910.9 [Reserved]

§ 1910.10 Preference.

(a) *Veterans.* (1) Veteran’s preference is given to any person applying for an RH, FO, SW, or OL loan who has been honorably discharged, including clemency discharges, or released from the active forces of the U.S. Army, Navy, Air Force, Marine Corps, or Coast Guard, and who served during a period of war, as defined in 38 U.S.C. 101(12).

(2) Veteran’s preference will apply when:

(i) There is a shortage of funds.

(ii) Obligating forms are ready to be submitted to the Finance Office, and

(iii) There is more than one application having the same date.

(3) For Rural Housing applicants, veteran’s preference will be extended to the spouses and children of deceased servicemen who died in service during one of the periods listed in paragraph (a)(1) of this section.

(b) *Farm Credit Programs (FCP) loans.* In addition to the veteran’s preference, the preference set out in § 1943.10 of subpart A of part 1943 of this chapter applies.

[53 FR 35671, Sept. 14, 1988, as amended at 61 FR 35922, July 9, 1996; 62 FR 9353, Mar. 3, 1997]

§ 1910.11 Special requirements.

(a) *Servicemen’s Readjustment Act of 1944.* Section 512(a)(D) of the Servicemen’s Readjustment Act of 1944, as amended, provides that an applicant for a direct housing loan from the Department of Veterans Affairs (VA) must be “unable to obtain a loan for such purposes from the Secretary of Agriculture under the Consolidated Farm and Rural Development Act, as amended, or the Housing Act of 1949, as amended.” Department of Veterans Affairs Loan Guaranty Officers may, therefore, require VA loan applicants to apply to the agency for loan assistance.

(b) *Veterans determined ineligible by the Agency.* If the veteran is unable to obtain a loan, the County Supervisor will, upon request, furnish the applicant with a rejection letter to be presented to the Loan Guaranty Officer. The Loan Guaranty Officer may consult with the County Supervisor regarding the investigation made by the Agency of the veteran's application and the specific reasons for rejection.

[61 FR 35922, July 9, 1996]

§§ 1910.12–1910.49 [Reserved]

§ 1910.50 OMB control number.

The reporting and recordkeeping requirements contained in this regulation have been approved by the Office of Management and Budget and have been assigned OMB control number 0575–0134. Public reporting burden for this collection of information is estimated to vary from 20 minutes to 2 hours per response including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of collection of this information, including suggestions for reducing this burden, to Department of Agriculture, Clearance Officer, OIRM, room 404–W, Washington, DC 20250; and to the Office of Management and Budget, Paperwork Reduction Project (OMB # 0575–0134), Washington, DC 20503.

[57 FR 19523, May 7, 1992]

EXHIBIT A TO SUBPART A OF PART 1910[RESERVED]

EXHIBIT B TO SUBPART A OF PART 1910—

LETTER TO NOTIFY SOCIALLY DISADVANTAGED APPLICANTS/BORROWERS REGARDING THE AVAILABILITY OF DIRECT FARM OWNERSHIP (FO) LOANS AND THE ACQUISITION/LEASING OF FMHA OR ITS SUCCESSOR AGENCY UNDER PUBLIC LAW 103–354 ACQUIRED FARMLAND

United States Department of Agriculture

Farmers Home Administration or its successor agency under Public Law 103–354

(Insert address)

Date _____

Dear _____:

The Farmers Home Administration (FmHA) or its successor agency under Public Law 103–354 has authority under the Consolidated Farm and Rural Development Act to target direct farm ownership (FO) loan funds to applicants/borrowers of socially disadvantaged groups. This program provides credit to applicants/borrowers of socially disadvantaged groups, at regular or reduced interest rates, to purchase or enlarge farms. In addition, the program provides that FmHA or its successor agency under Public Law 103–354 acquired farmland be made available for sale or lease to applicants/borrowers of socially disadvantaged groups. Socially disadvantaged borrowers with existing direct FO loans may have their accounts deferred and/or reamortized at a reduced interest rate.

If you would like additional information regarding the availability of direct FO loans to, and/or the renting or buying of FmHA or its successor agency under Public Law 103–354 acquired farmland by, members of socially disadvantaged groups, you should contact my office.

Sincerely,

County Supervisor.

[57 FR 19523, May 7, 1992]

EXHIBIT C TO SUBPART A OF PART 1910—

LETTER TO NOTIFY APPLICANT(S)/BORROWER(S) OF THEIR RESPONSIBILITIES IN CONNECTION WITH FMHA OR ITS SUCCESSOR AGENCY UNDER PUBLIC LAW 103–354 FARMER PROGRAM LOANS

NOTE: Exhibit C, referenced in this subpart, is available in any FmHA or its successor agency under Public Law 103–354 office.

Subpart B—Credit Reports (Individual)

SOURCE: 49 FR 40790, Oct. 18, 1984, unless otherwise noted.

§ 1910.51 Purpose.

This subpart prescribes the policies and procedures of the Farmers Home Administration (FmHA) or its successor agency under Public Law 103–354 for individual and joint type credit reports. Credit reports will be ordered to determine the eligibility of applicants requesting Farmers Home Administration (FmHA) or its successor agency

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under Public Law 103-354 loans. A non-refundable fee will be charged the applicant.

[55 FR 46188, Nov. 2, 1990]

§ 1910.52 [Reserved]

§ 1910.53 Policy.

The County Supervisor will be responsible for ordering individual credit reports. These will be obtained on initial and rescheduled Farmer Program loans and on all initial Single Family Housing applications, except for those situations outlined in paragraph (c) of this section, to help determine the eligibility of the loan applicant, and when it appears the credit report will not have to be updated before loan closing.

[55 FR 46188, Nov. 2, 1990]

§§ 1910.54-1910.100 [Reserved]

Subpart C—Commercial Credit Reports

SOURCE: 52 FR 6498, Mar. 4, 1987, unless otherwise noted.

§ 1910.101 Preface.

FmHA or its successor agency under Public Law 103-354 Instruction 1910-C (available in any Farmers Home Administration (FmHA) or its successor agency under Public Law 103-354 office) describes the procedure to be used by FMHA in obtaining commercial credit reports. A nonrefundable fee, set forth in §1910.106(d) of this Instruction will be collected from the applicant, general contractor or dealer contractor who is the subject of the report.

§§ 1910.102-1910.150 [Reserved]

PART 1922 [RESERVED]

PART 1924—CONSTRUCTION AND REPAIR

Subpart A—Planning and Performing Construction and Other Development

Sec.

- 1924.1 Purpose.
- 1924.2 [Reserved]
- 1924.3 Authorities and responsibilities.
- 1924.4 Definitions.
- 1924.5 Planning development work.

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- 1924.6 Performing development work.
- 1924.7 [Reserved]
- 1924.8 Development work for modular/panelized housing units.
- 1924.9 Inspection of development work.
- 1924.10 Making changes in the planned development.
- 1924.11 District Director's review of incomplete development.
- 1924.12 Warranty of development work.
- 1924.13 Supplemental requirements for more complex construction.
- 1924.14-1924.48 [Reserved]
- 1924.49 State supplements.
- 1924.50 OMB control number.

EXHIBIT A TO SUBPART A—ESTIMATED BREAK-DOWN OF DWELLING COSTS FOR ESTIMATING PARTIAL PAYMENTS

EXHIBIT B TO SUBPART A—REQUIREMENTS FOR MODULAR/PANELIZED HOUSING UNITS

EXHIBIT C TO SUBPART A—GUIDE FOR DRAWINGS AND SPECIFICATIONS

EXHIBIT D TO SUBPART A—THERMAL PERFORMANCE CONSTRUCTION STANDARDS

EXHIBIT E TO SUBPART A—VOLUNTARY NATIONAL MODEL BUILDING CODES

EXHIBIT F TO SUBPART A—PAYMENT BOND

EXHIBIT G TO SUBPART A—PERFORMANCE BOND

EXHIBIT H TO SUBPART A—PROHIBITION OF LEAD-BASED PAINTS

EXHIBIT I TO SUBPART A—GUIDELINES FOR SEASONAL FARM LABOR HOUSING

EXHIBIT J TO SUBPART A—MANUFACTURED HOME SITES, RENTAL PROJECTS AND SUBDIVISIONS: DEVELOPMENT, INSTALLATION AND SET-UP

EXHIBIT K TO SUBPART A—CLASSIFICATIONS FOR MULTI-FAMILY RESIDENTIAL REHABILITATION WORK

EXHIBIT L TO SUBPART A—INSURED 10-YEAR HOME WARRANTY PLAN REQUIREMENTS

Subpart B—Management Advice to Individual Borrowers and Applicants

- 1924.51 General.
- 1924.52-1924.53 [Reserved]
- 1924.54 Definitions.
- 1924.55 Assessment of the agricultural operation.
- 1924.56 Farm business planning.
- 1924.57 [Reserved]
- 1924.58 Recordkeeping.
- 1924.59 Supervision.
- 1924.60 Nonfarm enterprises.
- 1924.61-1924.73 [Reserved]
- 1924.74 Borrower Training program.
- 1924.75-1924.99 [Reserved]
- 1924.100 OMB control number.
- EXHIBIT A TO SUBPART B—LETTER TO BORROWER REGARDING RELEASES OF FARM INCOME TO PAY FAMILY LIVING AND FARM OPERATING EXPENSES